

NTSB Order No. EA-4914

Adopted by the NATIONAL TRANSPORTATION SAFETY BOARD
at its office in Washington, D.C.
on the 24th day of September, 2001

Respondent .

Docket SE-16378

The respondent has appealed from the oral initial decision Administrative Law Judge William A. Pope rendered in this proceeding on August 28, 2001, at the conclusion of an evidentiary hearing.¹ By that decision, the law judge affirmed an emergency order of the Administrator revoking respondent's private pilot certificate for his alleged violations of sections

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45.21(a), 61.3(a) and (c), 61.23(a)(3)(i), 65.15(c), 91.7(a), 91.9(c), 91.13(a), 91.203(a)(1), and 91.417(c) of the Federal Aviation Regulations ("FAR", 14 C.F.R. Parts 45, 61, 65, and 91). For the reasons discussed below, respondent's appeal will be denied.²

The Administrator's July 19, 2001 Emergency Order of Revocation alleges, among other things, the following facts and circumstances with respect to the respondent:

1. You are now, and at all times mentioned herein you were, the holder of Airman Pilot Certificate No. 519469176 with private pilot privileges.
2. On or about June 30, 1983, you were issued an airman medical certificate third class that was valid for student pilot purposes only. Carriage of passengers was not permitted.
3. The medical certificate referenced in paragraph 2 is the most recent medical certificate issued to you.
4. On or about July 16, 2001, you served as the pilot in command of civil aircraft N8604M, a Beech Model B35, on a flight in air commerce that terminated at Northway, Alaska.
5. On or about July 16, 2001, you served as the pilot in command of civil aircraft N8604M on a flight in air commerce from Northway, Alaska, to Fairbanks, Alaska.
6. On or about July 18, 2001, you served as the pilot in command of civil aircraft N8604M on a flight in air commerce from Fairbanks, Alaska, to Deadhorse, Alaska.
7. On or about July 19, 2001, you served as the pilot in command of civil aircraft N8604M on a flight in air commerce from Deadhorse, Alaska, to Barrow, Alaska.
8. During each of the above flights, you had a passenger on board the aircraft.
9. At the time of each of the above flights, you did not have

²The Administrator has filed a reply brief opposing the appeal.

an airman pilot certificate in your physical possession.

10. At the time of each of the above flights, there was no airworthiness certificate on board the aircraft.
11. At the time of the above flights, there was no nationality mark displayed on the aircraft.
12. At the time of the above flights, there was no data plate affixed to the exterior of the aircraft, and the model designation and builder's serial number were not displayed on the aircraft fuselage exterior.
13. At the time of the above flights, civil aircraft N8604M was not in an airworthy condition because an antenna attached to the right wing was pulling through the mounting attach point.
14. While the aircraft was in Fairbanks after the flight referenced in paragraph 5 and prior to the flight referenced in paragraph 6, two aviation safety inspectors attempted to conduct a ramp inspection on civil aircraft N8604M. You refused to allow the ramp inspection, and you refused to make the maintenance records for the aircraft available for inspection.
15. Subsequent to your refusal to allow the ramp inspection as referenced in paragraph 14, the aviation safety inspectors noted the discrepancies referenced in paragraphs 10-13 on an Aircraft Condition Notice, FAA Form 8620-1, and presented it to you.
16. On or about May 10, 1996, your airman mechanic certificate was revoked because you had failed to surrender it as ordered in 1991 for a 120-day suspension. To date you have not surrendered it.

Based on the foregoing facts and circumstances, you violated the following Federal Aviation Regulations (FAR):

- (a) Section 45.21(a) in that you operated a U.S.-registered aircraft when that aircraft did not display nationality and registration marks in accordance with the requirements of this section and sections 45.23 through 45.33.
- (b) Section 61.3(a) in that you served as the pilot in command of a civil aircraft of U.S. registry when you did not have a valid pilot certificate in your physical possession.
- (c) Section 61.3(c) in that you acted as pilot in

command of an aircraft under a certificate issued to you under Part 61 of the FAR when you did not have a current and appropriate medical certificate that was issued under Part 67 of the FAR.

- (d) Section 61.23(a)(3)(i) in that you did not hold at least a third-class medical certificate when exercising the privileges of a private pilot certificate.
- (e) Section 65.15(c) in that you failed to return to the Administrator a certificate issued under Part 65 that was suspended, revoked, or no longer effective.
- (f) Section 91.7(a) in that you operated a civil aircraft that was not in an airworthy condition.
- (g) Section 91.9(c) in that you operated a U.S.-registered civil aircraft when that aircraft was not identified in accordance with Part 45 of the FAR.
- (h) Section 91.13(a) in that you operated an aircraft in a careless or reckless manner so as to endanger the life or property of another.
- (i) Section 91.203(a)(1) in that you operated a civil aircraft when it did not have within it an appropriate and current airworthiness certificate.
- (j) Section 91.417(c) in that you operated a civil aircraft and failed to make all maintenance records required to be kept by this section available for inspection by the Administrator or any authorized representative of the National Transportation Safety Board (NTSB).

The respondent did not attend the hearing. The law judge, based on the unrefuted testimonial and documentary evidence advanced at the hearing in support of the factual allegations, agreed with the Administrator that respondent's conduct demonstrated that he lacks the care, judgment, and responsibility required of a private pilot certificate holder. Respondent's appeal brief demonstrates no error in the law judge's decision.

Although respondent's two-page appeal brief generically

attacks the evidence adduced by the Administrator as "false information," it provides no basis for concluding that the law judge could not find the testimony of the Administrator's witnesses or her other evidence sufficient to support the charges. Thus, even if respondent had not forfeited his opportunity to challenge the Administrator's evidence by failing to attend the hearing and put on evidence of his own, we have no reason to believe, from respondent's brief or from any other document he has submitted in the case, that any of the facts contained in the Administrator's presentation should not have been credited.

Respondent next suggests that the Administrator could not properly take certificate action against him in this matter because, he insists, he is not a U.S. citizen.³ His position, insofar as we understand its underpinnings, is both unavailing and untenable. The Administrator's authority in this case is unaffected by respondent's aberrant notions about citizenship, for it derives not from respondent's nationality, but from his possession of an airman pilot certificate the Administrator issued to him. Indeed, respondent's appeal from the Administrator's revocation order must be viewed as reflecting his own recognition that his right to operate an aircraft within U.S.

³Respondent appears to be a longtime resident of the State of Oregon who challenges the jurisdiction of the Federal government over him. He proclaims a distinction between those who are citizens of the United States of America and those who, like him, apparently, are only citizens of the united States of America. In any event, the record gives no indication that respondent is not an American citizen.

airspace flowed from and depended upon his possession of such a certificate. For if the respondent did not believe he needed his airman certificate to operate an aircraft within *this* country, he would have no reason to contest its loss here.

The remainder of respondent's appeal brief mostly consists of a diatribe reflecting his disagreement with the Administrator's regulation of air safety in general and her prosecution of this case on an emergency basis in particular.⁴ It does not "set forth in detail" any objections to the law judge's initial decision, as required by our Rules of Practice.⁵ See Section 821.48(b), 49 C.F.R. Part 821. Our own review of the law judge's findings and conclusions reveals no basis for disturbing his affirmance of the revocation order.

ACCORDINGLY, IT IS ORDERED THAT:

1. The respondent's appeal is denied; and
2. The initial decision and the emergency order of revocation are affirmed.

CARMODY, Acting Chairman, and HAMMERSCHMIDT, GOGLIA, and BLACK, Members of the Board, concurred in the above opinion and order.

⁴To the extent respondent perceives this certificate action to be an abridgment of his right to travel, we would simply observe that whether the Administrator ought to have the authority to regulate pilots or pilotage within navigable U.S. airspace is not a question we are empowered to review.

⁵As the Administrator notes in her reply, the allegations that the respondent had violated various regulations by his operation of four flights in "air commerce" did not require proof that the flights were for compensation or hire, as respondent appears to argue. It is enough that he operated flights that had the potential to endanger the safety of such revenue operations. See 14 C.F.R. Section 1.1.